

ORIGINAL

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

RONALD L. OBREY, JR.,

Plaintiff,

v.

GORDON R. ENGLAND, in his capacity as the
Secretary of the Navy

Defendant.

TO: MICHAEL MALACHWIEJ
 1860 Ala Moana Boulevard
 Honolulu, HI 96815

SUBPOENA IN A CIVIL CASECase Number¹: CV 02-00033 LEK

FILED IN THE
 UNITED STATES DISTRICT COURT
 DISTRICT OF HAWAII

SEP 04 2008

at 3 o'clock and 40 min. P.M.
 SUE BEITIA, CLERK

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time, specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

- ☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Law Office of Clayton C. Ikei, 1440 Kapiolani
 Boulevard, Suite 1203, Honolulu, Hawaii 96814

DATE AND TIME

September 19, 2008 at
 9:00 a.m.

- ☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

Attorney for Plaintiff

DATE

August 29, 2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

CLAYTON C. IKEI, Pacific Guardian Tower, Suite 1203, 1440 Kapiolani
 Boulevard, Honolulu, Hawaii 96814; Telephone: (808) 533-3777

(See Rule 45, Federal Rules of Civil Procedure, Parts C&D on next page)

¹ If action is pending in district other than district of issuance, state district under case number

A088 (Rev. 1/94) Subpoena in a Civil Case

PROOF OF SERVICE

DATE 09/03/2008		PLACE 333 QUEEN ST Ste 700 HONOLULU, HI 96813	
SERVED ON (PRINT NAME) MICHAEL MALACHIEJ		MANNER OF SERVICE PERSONAL SERVICE	
SERVED BY (PRINT NAME) Jeffrey OWENS		TITLE LEGAL PROCESS SERVER	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

09/03/2008

DATE

SIGNATURE OF SERVER

743-H WAIKAMULO RD

ADDRESS OF SERVER

HONOLULU, HI 96817

Rule 45, Federal Rules of Civil Procedure, Parts C&D

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall force this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production of inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any and all the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,
(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such person

may in order to attend trial be commanded to travel from any such place within which the trial is held or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claims shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.